

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-0970V

M.F.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: April 9, 2024

John Robert Howie, Howie Law, PC, Dallas, TX, for Petitioner.

Zoe Wade, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON ATTORNEY'S FEES AND COSTS¹

On February 22, 2021, M.F. filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the "Vaccine Act"). Petitioner alleged that she suffered a left shoulder injury related to vaccine administration ("SIRVA") following her receipt of a pneumococcal conjugate ("Prevnar 13") vaccination on June 12, 2020. Petition at 1. On February 15, 2024, I issued a decision awarding damages to Petitioner, following briefing by the parties. ECF No. 44.

Petitioner has now filed a motion for attorney's fees and costs, requesting an award of \$45,038.39 (representing \$43,652.20 for fees and \$1,385.89 for costs). Petitioner's Application for Attorneys' Fees, filed Mar. 22, 2024, ECF No. 53. In accordance with

¹Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

General Order No. 9, counsel for Petitioner represents that Petitioner incurred no out-of-pocket expenses. ECF No. 53-4. Respondent has not filed a response.

The rates requested for work performed through the end of 2023 are reasonable and consistent with our prior determinations, and will therefore be adopted. ECF No. 53 at 1-2. Petitioner has also requested 2024 attorney hourly rates equivalent to those used for 2023 work for attorney John Howie and paralegal Elisa Bautista. *Id.* I find these hourly rates to be reasonable, and will award the attorney's fees requested.

I also note this case required additional briefing regarding damages. See Status Report, filed June 14, 2023, ECF No. 38) (reporting an impasse in damages discussions and proposing a briefing schedule); Petitioner's Motion for Ruling on the Record on Damages and Brief in Support, filed July 31, 2023, ECF No. 40; Petitioner's Reply to Respondent's Response to Petitioner's Motion for Ruling on the Record on Damages, filed Oct. 27, 2023, ECF No. 43. Petitioner's counsel expended approximately 13.0 hours drafting the motion regarding entitlement and damages and 7.8 hours drafting the reply brief, totaling 20.8 hours. ECF No. 53-2 at 5-6. I find this amount of time to be reasonable and will award the attorney's fees requested. (And all time billed to the matter was also reasonably incurred.)

Furthermore, Petitioner has provided supporting documentation for all claimed costs, except \$46.54 in copying costs which I will nevertheless allow. ECF No. 53-3. And Respondent offered no specific objection to the rates or amounts sought. I have reviewed the requested costs and find them to be reasonable.

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). **I award a total of \$45,038.39 (representing \$43,652.50 for fees and \$1,385.89 for costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, John R. Howie, Jr.** In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this Decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.